

RESOLUTION NO. 4599

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF AUBURN, WASHINGTON, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A SERVICE AGREEMENT BETWEEN THE CITY OF AUBURN AND 2 WATCH MONITORING, INC FOR ELECTRONIC HOME MONITORING AND ALCOHOL MONITORING SERVICES

WHEREAS, the City of Auburn is engaged in various municipal functions, including court and probation services; and

WHEREAS, in order to provide for such services, it is appropriate that the City enter into contracts with other agencies; and

WHEREAS, the City has a need for electronic home monitoring and alcohol monitoring services; and

WHEREAS, 2 Watch Monitoring, Inc., has the ability to provide for these services at a cost that is acceptable to the City; and

WHEREAS, it is in the public interest for the City of Auburn and 2 Watch Monitoring, Inc., to enter into an agreement for Electronic Home Monitoring and Alcohol Monitoring Services.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF AUBURN, KING COUNTY, WASHINGTON, HEREBY RESOLVES as follows:

Section 1. The Mayor of the City of Auburn and the Auburn City Clerk are hereby authorized to execute a Service Agreement between the City of Auburn and 2 Watch Monitoring, Inc. for Electronic Home Monitoring and Alcohol Monitoring Services which agreement shall be in substantial conformity

with the Agreement a copy of which is attached hereto, marked as Exhibit "A" and incorporated herein by this reference.

Section 2. The Mayor is hereby authorized to implement such administrative procedures as may be necessary to carry out the directives of this legislation.

Section 3. This resolution shall be in full force and effect upon passage and signatures hereon.

Dated and signed this _____ day of _____, 2010.

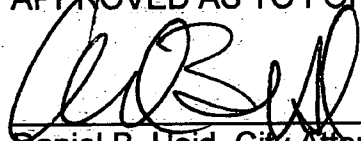
CITY OF AUBURN

PETER B. LEWIS
MAYOR

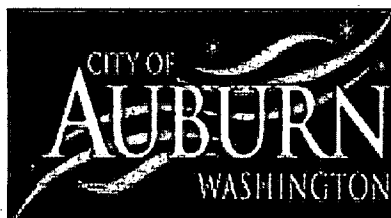
ATTEST:

Danielle E. Daskam, City Clerk

APPROVED AS TO FORM:



Daniel B. Heid, City Attorney



SERVICE AGREEMENT - ELECTRONIC HOME MONITORING (EHM) AND ALCOHOL MONITORING SERVICES

CITY OF AUBURN - May 7, 2010

2 Watch Monitoring, Inc. (Service Provider) and City of Auburn (Agency) hereby enter into this written Service Agreement under the terms and conditions set forth herein and per other attached and referenced documents.

SERVICE PROVIDER and AGENCY RESPONSIBILITIES

Attached Responsibility Matrix (Exhibit "A") outlines the responsibilities/expectations of both Service Provider and Agency and is hereby made a part of this agreement.

PRICING SCHEDULE

The attached Pricing Schedule (Exhibit "B") outlines both the Offender Paid and Agency Paid pricing and is hereby made a part of this agreement.

EQUIPMENT

Proposed equipment / products are as follows:

TrackerPal II – by Secure.Alert

MEMS 3000 VBR – by ElmoTech

PharmChek Drug Patch – by PharmChem Labs

Service Provider shall have the right to update, revise or replace equipment types and relevant pricing only with prior and advanced approval from Agency.

Equipment is the property of 2 Watch Monitoring, Inc. and is only being utilized by Agency or offender for the duration of each participant's program requirement. No purchase of equipment by Agency is either expressed or implied.

Service Provider shall provide all required equipment, software and accessories for complete program participation.

Once participant completes their program and equipment is removed, Service Provider shall retain said equipment, unless otherwise agreed by both parties.

ON-SITE STAFFING

Service Provider agrees to provide enrollment, installation and activation of electronic monitoring programs at Agency's Probation Office location. 2WM staff shall be present at the Probation Office's designated area every Monday, Wednesday and Friday afternoons, from 12 noon to 4pm, depending on the number of offenders being enrolled. When no offenders are required to be sentenced to electronic monitoring on the court dates, then 2WM staff shall not be required to be on-site on Monday, Wednesday and Friday, unless otherwise requested by Probation Office. Agency shall

provide Service Provide adequate notice and anticipated offender count as soon as possible after court dates for inventory and planning purposes.

Service Provider shall provide adequate staffing to administer, install, monitor, report, service and maintain, and communicate with Agency and its referred offenders.

PAYMENT

Daily Rates: Cost of program begins on installation/activation date and ends on date of program completion, as indicated by court authority or court order.

Offender Paid Payment Provisions: Electronic monitoring programs shall be Offender Paid, unless City of Auburn qualifies offender as indigent, then Agency Paid pricing shall prevail and Agency shall be invoiced per below.

- 2WM's Participation Service Agreement (Exhibit "C" attached for reference) shall be reviewed and signed by each offender/participant prior to program activation.
- Typically required is at least 2-4 weeks up-front cost plus enrollment fee. However, we have a low-income/hardship policy that allows flexibility in both installment amount and duration of payment schedule.

Agency Paid Payment Provisions: Invoiced to City of Auburn Probation Dept. monthly per active units, payable net 15 days. Agency agrees to compensate service provider for Offender Paid programs that become delinquent after 30 days of termination from program or program completion. Compensation shall be at offender paid pricing. The Contractor shall be solely responsible for the payment of any taxes imposed by any lawful jurisdiction as a result of the performance and payment of this Agreement.

SERVICE AGREEMENT DURATION

This Agreement shall be in effect for one calendar year from the last date signed. The Agreement may be extended on a yearly basis upon written agreement of the parties. There shall be a joint review of this Service Agreement by Agency and Service Provider every 6 months to renew terms or terminate. Agency has the right to terminate this Service Agreement at any time, but in such case shall remain liable for payments due pursuant to provision of services by Service Provider up to and including such date.

INSURANCE

The Service Provider shall procure and maintain for the duration of this Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Service Provider, its agents, representatives or employees.

Minimum Scope of Coverage. The Service Provider shall obtain insurance of the types described below:

Commercial General Liability - insurance shall be written on ISO occurrence form CG 00 01 and shall cover liability arising from premises, operations, independent contractors and personal injury and advertising injury. The Agency shall be named as an insured under the Provider's Commercial General Liability insurance policy with respect to the work performed for the Agency, with minimum liability limits no less than \$1,000,000 each occurrence, \$2,000,000 general aggregate.

Worker's Compensation - Such workmen's compensation and other similar insurance as may be required by law.

Automobile Liability - insurance covering all owned, non-owned, hired and leased vehicles. Coverage shall be written on Insurance Services Office (ISO) form CA 00 01 or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage.

Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions for Auto and Commercial General Liability insurance:

- The Provider's insurance coverage shall be primary insurance as respect the Agency. Any Insurance, self-insurance, or insurance pool coverage maintained by the Agency shall be excess of the Provider's insurance and shall not contribute with it.
- The Provider's insurance shall be endorsed to state that coverage shall not be cancelled by either party, except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the Agency.

Insurance is to be placed with insurers with a current A.M. Best rating of not less than A:VII. Provider shall furnish the Agency with original certificates and a copy of the amendatory endorsements, including but not necessarily limited to the additional insured endorsement, evidencing the insurance requirements of the Provider before commencement of the work.

No Limitation. The Service Provider's maintenance of insurance as required by the Agreement shall not be construed to limit the liability of the Service Provider to the coverage provided by such insurance, or otherwise limit the Agency's recourse to any remedy available at law or in equity.

Agency Equipment Property Coverage. For Offender Paid programs, Participant is responsible for damage, loss, or theft of equipment, under the provisions of their signed Participation Agreement with 2WM.

For Agency Paid programs the following applies:

Secure Alert Equipment:

Agency Pricing includes insurance coverage for damaged, lost, unreturned or inoperable equipment. If a device becomes inoperably damaged or lost, a \$75 deductible will be charged per occurrence to cover Service Provider's deductible and administrative costs. Accessories of such equipment such as straps, chargers, installation equipment and the like shall be replaced at \$10 per occurrence.

ElmoTech Equipment:

Agency Pricing includes insurance coverage for damaged, lost, unreturned or inoperable equipment. If a device becomes inoperably damaged or lost, 2WM will cover up to an annual cap of 5% of total contract price. (example: if Agency was invoiced for \$25,000 in 2010, then you would have 5% x \$25,000 in coverage or \$1,250 for the year)
Drug Patch is not covered.

INDEPENDENT CONTRACTOR/CONFLICT OF INTEREST

It is the intention and understanding of the Parties that the Contractor shall be an independent contractor and that the City shall be neither liable nor obligated to pay Contractor sick leave, vacation pay, or any other benefit of employment, nor pay any social security or other tax due. Industrial or any other insurance that is purchased for the benefit of the City, regardless of whether such may provide a secondary or incidental benefit to the Contractor, shall not be deemed to convert this Agreement to an employment contract. It is recognized that Contractor may or will be performing professional services during the Term for other parties; provided, however, that such performance of other services shall not conflict with or interfere with Contractor's ability to perform the Services. Contractor agrees to resolve any such conflicts of interest in favor of the City.

MODIFICATION

During Service Agreement duration, Agency and Service Provider may modify or revise any portion of Service Agreement, upon written acceptance of modifications by both parties. Service Provider shall have the right to review and evaluate pricing every 6 months based on current economic, market and regulatory conditions, and to subsequently revise pricing, with agreement from Agency, to meet market conditions.

INDEMNIFICATION / NO WARRANTIES

The Service Provider shall defend, indemnify and hold the Agency its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of, or resulting from the acts, errors or omissions of the Service Provider in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Agency.

The Agency shall defend, indemnify and hold the Service Provider its officers, officials, employees and volunteers harmless from any and all claims, injuries, damages, losses or suits, including attorney fees, arising out of, or resulting from the acts, errors or omissions of the Agency in performance of this Agreement, except for injuries and damages caused by the sole negligence of the Service Provider.

In the event of liability for damages arising out of bodily injury to persons or damages to property caused by or resulting from the concurrent negligence of the Service Provider and the City, its officers, officials, employees, and volunteers, any damages allowed shall be levied in proportion to the percentage of negligence attributable to each party, and each party shall have the right to seek contribution from the other party in proportion to the percentage of negligence attributable to the other party.

It is further specifically and expressly understood that the indemnification provided herein constitutes the Parties' waiver of immunity under Industrial Insurance, Title 51 RCW, solely for the purposes of this indemnification. This waiver has been mutually negotiated by the Parties. The provisions of this section shall survive the expiration or termination of this Agreement.

2WATCH MONITORING MAKES NO WARRANTIES, EXPRESSED OR IMPLIED IN CONNECTION WITH THIS SERVICE AGREEMENT INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

If any disclaimer or limit on liability for consequential property damages included in this Service Agreement is found invalid under the laws of the state for which the terms of this Service Agreement are interpreted, then those consequential property damages will not exceed \$100.00 per consequential injury or loss.

The provisions of this section will continue to be enforced even after the term of this Service Agreement has expired.

GENERAL PROVISIONS

Entire Agreement. This Agreement contains all of the agreements of the Parties with respect to any matter covered or mentioned in this Agreement and no prior agreements shall be effective for any purpose.

Modification. No provision of this Agreement, including this provision, may be amended or modified except by written agreement signed by the Parties.

Full Force and Effect. Any provision of this Agreement that is declared invalid or illegal shall in no way affect or invalidate any other provision hereof and such other provisions shall remain in full force and effect.

Assignment. Neither the Contractor nor the City shall have the right to transfer or assign, in whole or in part, any or all of its obligations and rights hereunder without the prior written consent of the other Party.

Successor in Interest. Subject to the foregoing Subsection, the rights and obligations of the Parties shall inure to the benefit of and be binding upon their respective successors in interest, heirs and assigns.

Attorney Fees. In the event either of the Parties defaults on the performance of any terms of this Agreement or either Party places the enforcement of this Agreement in the hands of an attorney, or files a lawsuit, the non-prevailing Party shall pay all attorney fees, costs and expenses. The venue for any dispute related to this Agreement shall be King County, Washington.

No Waiver. Failure or delay of the City to declare any breach or default immediately upon occurrence shall not waive such breach or default. Failure of the City to declare one breach or default does not act as a waiver of the City's right to declare another breach or default.

Governing Law. This Agreement shall be made in and shall be governed by and interpreted in accordance with the laws of the State of Washington.

Authority. Each individual executing this Agreement on behalf of the City and Contractor represents and warrants that such individuals are duly authorized to execute and deliver this Agreement on behalf of the City or the Contractor.

Notices. Any notices required to be given by the Parties shall be delivered at the addresses set forth below. Any notices may be delivered personally to the addressee of the notice or may be deposited in the United States mail, postage prepaid, to the address set forth below. Any notice so posted in the United States mail shall be deemed received three (3) days after the date of mailing.

Captions. The respective captions of the Sections of this Agreement are inserted for convenience of reference only and shall not be deemed to modify or otherwise affect any of the provisions of this Agreement.

Performance. Time is of the essence of this Agreement and each and all of its provisions in which performance is a factor. Adherence to completion dates set forth in the description of the Services is essential to the Contractor's performance of this Agreement.

Remedies Cumulative. Any remedies provided for under the terms of this Agreement are not intended to be exclusive, but shall be cumulative with all other remedies available to the City at law, in equity or by statute.

Counterparts. This Agreement may be executed in any number of counterparts, which counterparts shall collectively constitute the entire Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed effective the day and year first set forth above.

CITY OF AUBURN

2 WATCH MONITORING, INC.

Peter B. Lewis, Mayor

Lui L. Leasiolagi, President/CEO

Attest:

Danielle E. Daskam, City Clerk

Approved as to form:

Daniel B. Heid, City Attorney

STATE OF WASHINGTON)
) ss.
 COUNTY OF _____)

ON THIS _____ day of _____, 200____, before me, personally appeared
 and _____, to me known to be the _____ and
 of the Consultant, the corporation/company that executed the within and foregoing instrument, and acknowledged said
 instrument to be the free and voluntary act and deed of said corporation/company, for the uses and purposes therein
 mentioned, and on oath stated that they were authorized to execute said instrument.

GIVEN under my hand and official seal this _____ day of _____, 20____.

 NOTARY PUBLIC in and for the State of
 Washington, residing at _____
 My Commission Expires: _____

Attachments: Exhibit A – Responsibility Matrix
 Exhibit B – Pricing Schedule
 Exhibit C – Participant Service Agreement

EXHIBIT "A"

CITY OF AUBURN & 2WM PROPOSED RESPONSIBILITY MATRIX			
		City of Auburn	2WM
1	Start-Up and Ongoing Training as Needed		
	2WM shall provide this service to City of Auburn personnel as required.		
2	Offender Orientation, Equipment Installation & Program Activation		
	2WM shall be present every Monday, Wednesday & Friday, noon to 4pm @ City of Auburn Probation Dept. for this activity.		
3	Equipment Removal & Program Deactivation		
	This activity is provided either at the City of Auburn Probation Dept on Mondays, Wednesdays & Fridays from noon to 4pm, or at 2WM offices, or as agreed with Auburn Probation. Otherwise, 2WM shall train City of Auburn Probation Dept. personnel for this activity.		
4	Monitoring		
	Provided in real-time (Active) from 8am - 5pm daily and provided as a summary of violations (Passive) from 5:01pm - 7:59am.		
5	Reporting		
	Violation Reports during business hours of 8am - 5pm shall be provided as violations occur. Violation Reports from 5:01pm - 7:59am shall be provided at 9am each morning as a summary of violations to City of Auburn for previous night's violations. Violation notification shall be provided by 2WM monitoring staff to any agreed upon Auburn Probation staff via any method agreed upon (fax, email, text msg, phone call, etc.)		
6	Testing (UA & EtG)		
	As required or recommended by 2WM monitoring programs.		
7	Equipment Maintenance & Troubleshooting		
	This activity is provided either at the City of Auburn Probation Dept on Mondays, Wednesdays and Fridays from noon to 4pm, or at 2WM offices or as agreed with Auburn Probation. Otherwise, see MRT notes below.		
8	Web-Based Software Access		
9	Subpoenaed Court Testimony		
	Court testimony shall be hourly @ \$50/hr. as requested.		
10	Offender Qualification		
	City of Auburn shall be responsible for qualifying offenders as indigent or not for determination of pricing rate.		
	EXTRA SERVICES		
11	Mobile Response Team (MRT)		
	This is an extra service invoiced @ \$50/hr. as requested in situations where offenders cannot leave their home or require immediate equipment attention outside of the City of Auburn or @ 2WM locations. MRT will request authorization from the City of Auburn prior to responding.		

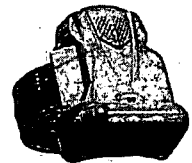


City of Auburn Pricing

EXHIBIT "B"

1. GPS Monitoring (Live/Real-Time)

This one piece ankle bracelet w/ built-in cell- phone, audible siren and live 24/7 GPS monitoring includes distinct features such as 2 or 3 way direct communication, tamper resistance, web based access, unlimited zone parameters and records and transmits data in real-time up to every minute, 5 minute standard.



Tracker Pal II
By Secure Alert

Usage Req'd	Offender Paid	City Paid (Indigents)
1-20 Units	\$15 / day	\$12.50 / day
21-40 Units	\$15 / day	\$12.40 / day
Plus Enrollment Fee	\$50 one-time	\$ 25 one-time
*eArrest Beacon(Optional)	+\$2.50 / day	+\$ 2.25 / day



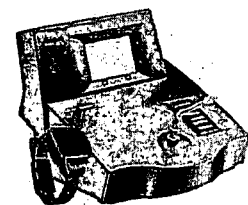
The eArrest Beacon is a device that utilizes radio frequency (RF) and compliments the TrackerPal II GPS tracking methods. Its purpose is to allow for more precise tracking of offenders in areas where GPS solutions may be insufficient, such as inside multi-floor apartments. It is a small (2" square), self-contained short-range transmitting station that is placed inside an ideal location and is assigned to one or more offenders wearing the TrackerPal II. Once activated, the eArrest Beacon and TP II defines a location to which an offender is restricted for specific times or all day or night. It can restrict the offender to within 35', 75' or 150' of a desired location.



eArrest Beacon
By Secure Alert

2. Breathalyzer Alcohol Monitoring (w/ House Arrest Feature)

This home-based breathalyzer w/ built-in cell phone and house arrest bracelet allows **random, scheduled or on-demand** breath tests. It includes recorded facial recognition technology, 24/7 monitoring, and a house arrest bracelet that is tethered to the unit via radio frequency.



MEMS 3000 VBR
By ElmoTech

Usage Req'd	Offender Paid	City Paid (Indigents)
1-20 Units	\$21 / day	\$15.75 / day
21-40 Units	\$21/ day	\$15.65 / day
Plus Enrollment Fee	\$50 one-time	\$ 25 one-time

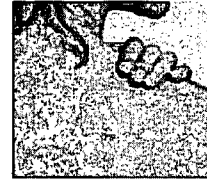


recorded facial recognition

City of Auburn Pricing

3. Drug Patch

An effective transdermal patch worn for 7 days at a time, then sent to lab for analysis for detection of numerous drugs including cocaine, opiates, amphetamines, PCP and marijuana. Cannot be diluted and is tamper-evident.



PharmChek Patch
By PharmChem Labs

Usage Req'd

1-20 Units
21-40 Units

Offender Paid

\$10 / day
\$10 / day

City Paid (Indigents)

\$7.50 / day
\$7.40 / day

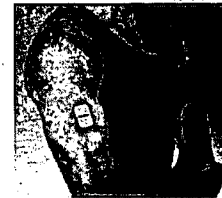


EXHIBIT C



Participant Service Agreement (PSA 2WM-TAC)

Please check the appropriate box:

- ☐ Electronic Home Monitoring E.H.M (GPS)
- ☐ Alcohol Monitoring (Breathalyzer/Transdermal)
- ☐ Combination: House Arrest w/ Alcohol Monitoring
- ☐ Random Urinalysis Testing
- ☐ Drug Patch
- ☐ _____ OTHER

This PARTICIPANT SERVICE AGREEMENT(S) (the "Agreement") dated this ____ day of _____, 20____, is between 2 Watch Monitoring, Inc (2WM-TAC), a Washington State Corporation, and _____, hereinafter referred to as the "Participant."
(Print Participant's name above)

1. TERMS AND CONDITIONS FOR MONITORING:

- Participant is an individual who is required to be or has agreed to be tracked by electronic monitoring equipment as directed or identified by _____, the Referring Authority.
- 2WM-TAC agrees to let Participant use the electronic monitoring equipment listed in the "Equipment" section below.
- Participant must read and initial next to all agreements.

Section 1 Participant Initials _____

2. TERM:

- a) The term of this Agreement shall be daily, based upon the terms and conditions of the court order and/or the Referring Authority. These terms shall remain in effect until all equipment listed is returned and account is "PAID IN FULL"

Section 2 Participant Initials _____

3. PARTICIPANT AGREES TO:

- a) Pay 2WM-TAC for the lease of the equipment according to the Financial Terms and Section Five (5) below.
- b) Use the Electronic Monitoring equipment according to instructions given during Orientation and those included in this agreement and any rules, laws, regulations, statutes or instructions that 2WM-TAC and/or Referring Authority requires the Participant to follow.
- c) Provide current address and proof of residency at such address. Will also present a change of address request 5days prior to changing of address.
- d) Provide current and active usable contact phone numbers, email, and social media format. Will accept 2WM emails as 'safe'. Will accept phone calls from 2WM and Monitoring Center 24/7. Will contact 2WM within 2hrs when messages are left on voice mail. To keep voice mail boxes with ample room for 2WM and Monitoring Center to leave messages.
- e) Report to 2WM OFFICE when instructed for equipment check or validation processes.
- f) Authorizes 2WM to verify residency or employment and/or acquire information through public access information process to qualify and monitor participant.

Section 3 Participant Initials _____

4. EQUIPMENT OWNERSHIP AND USE:

- a) Participant is not the owner of the equipment, so the Participant cannot sell, transfer, assign or sublease the equipment at any time.
- b) Participant agrees to use and maintain the equipment as instructed and agrees not to alter, damage or disable the equipment
- c) If the Participant is in default of any of the terms of this agreement. 2WM-TAC may terminate this Agreement and may repossess the equipment from the Participant. Should 2WM-TAC have to repossess the equipment, the Participant shall be subject to the enforcement of the consequences as outlined within this agreement which are separate from the Referring Authorities consequences.

Section 4 Participant Initials _____

5. PAYMENT(S) BY CREDIT/DEBIT CARD, CASHIERS CHECK OR MONEY ORDER:

- a) The following minimum payments shall be required in full upon signing this Agreement:
 - i. Program duration beyond 30days: 31 days advanced payment plus the scheduled orientation fee. Unless other payment arrangement are approved by 2WM-TAC Management.

Participant Initials _____

OR

- ii. Program duration 30days or less requires advance full payment plus the schedule orientation fee. Unless other payment arrangement are approved by 2WM-TAC Management.

Participant Initials _____

OR

- iii. If program duration is extended by Referring Authority, then a NEW FINANCIAL AND PAYMENT SCHEDULE agreement must be signed.

Section 5 Participant Initials _____

6. FINANCIAL TERMS & PAYMENT SCHEDULE:

PROGRAM DURATION: _____ (Days) PRE-TRIAL ☐ SENTENCE ☐ OTHER _____ ☐

PROGRAM DAILY RATE: \$ _____ NEXT COURT DATE _____

ORIENTATION Fee: \$ _____ TYPE OF EQUIPMENT ASSIGNED: _____

ESTIMATED COST = \$ _____ EQUIPMENT SERIAL NUMBER(S): _____

Daily Late Fee: \$2.00

RETURNED CHECKS: \$ 50.00

AFTER HOURS, WEEKEND AND
HOLIDAY FEES: \$100.00 FIRST HR.
\$50 EACH ADDITIONAL HOUR.

DATE:	AMOUNT:	TYPE:	BALANCE DUE:	RECEIVED BY:
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

PARTICIPANT SIGNATURE: _____

By signing, I agree to make scheduled payments on time. Late daily payment fee applies when payment is late.

2WM-TAC AGENT: _____

Section 6 Participant Initials _____

7. DEFAULT AND REMEDIES:

- a) The Participant agrees that her/his obligation to pay is unconditional. If any part of a payment is not made when due because a check is rejected or if a cashier's check or money order is invalid for any reason; Participant will be charged a returned fee of \$50 in addition to the daily rate for each late payment. Participant agrees to pay 2WM-TAC the late charge in full no later than one (1) month following the date the original payment was due.

The Participant ensures 2WM-TAC per their signature of this agreement, that he/she will not breach their obligation to this agreement and agree to pay all fines or penalties relating to this agreement. 2WM-TAC reserves the right to terminate program, based on non-compliance with terms and conditions of this agreement.

- b) If the Participant fails to return the equipment to 2WM-TAC specified in this agreement to 2Watch Monitoring, Inc and/or Referring Authority; the Participant agrees to pay 2WM-TAC the full market value of the replacement equipment available at that time, in addition to any other costs associated with 2WM-TAC repossession efforts.

- c) 2WM will pursue filing Felony Theft charges against the Participant if equipment (s) are not returned.

- d) Replacement, repossession and collection costs will bear interest at the rate of ten percent (10%) per year. The Participant will pay 2Watch Monitoring, Inc these interest charges from the date of occurrence until paid in full. 2Watch Monitoring, Inc may use any remedies available under the Uniform Commercial Code or any other applicable law.

Section 7 Participant Initials _____

8. NO WARRANTIES; INDEMNITY BY PARTICIPANT:

- a) 2Watch Monitoring, Inc makes no warranties, expressed or implied in connection with this Service Agreement.
- b) 2WM-TAC is not responsible for any injuries, damages to any person, property or losses to the Participant or Referring Authority caused by the misuse or improper maintenance of the equipment or for the Participant's failure to follow all instructions related to the use of the equipment or for the failure of the equipment to operate as anticipated, defects in the manufacturing or programming of the equipment. Participant agrees to hold 2WM-TAC harmless and to indemnify 2Watch Monitoring, Inc from any liability whatsoever arising from her/his use of the monitoring equipment.
- c) If any disclaimer or limit on liability for consequential damages included in this Service Agreement is found invalid under the laws of the state for which the terms of this Service Agreement are interpreted, then those consequential damages will not exceed \$100.00 per consequential injury or loss.

- d) The provisions of this section will continue to be enforced even after the term of this Service Agreement has expired.

Section 8 Participant Initials _____

9. MISCELLANEOUS PROVISIONS:

- e) **No Waiver:** Participant agrees that any delay or failure by 2WM-TAC to enforce its' rights under this Service Agreement will not prevent it from enforcing any rights at a later time.
- f) **Uniform Commercial Code (UCC):** Participant gives 2Watch Monitoring, Inc the right to immediately file, at the Participant's expense, any Uniform Commercial Code (UCC) financing statements or related filings or notices, as well as the right to sign Participant's name to any such filings that 2Watch Monitoring, Inc makes. Participant agrees to reduce the statute of limitations for any action for default to one (1) year after the occurrence of an alleged cause of action occurs, based on UCC section 2A-506.
- g) **Attorney Fees:** In the event of litigation between the parties regarding this Service Agreement, the prevailing party will be entitled to payment by the losing party of its' reasonable attorney fees, court costs and litigation expenses as determined by the court.
- h) **Jurisdiction and Venue:** This Service Agreement shall be governed, interpreted and construed by the laws of the state of Washington. Any default of this Service Agreement will be deemed to have occurred in the state of Washington.
- i) **NON-DISPARAGEMENT:** Participant agrees that he or she shall not, during the term of this Agreement or thereafter, malign, defame, blame, or otherwise disparage 2WM-TAC, either publicly or privately, regarding the services or equipment provided hereunder.

Section 9 Participant Initials _____

10. DAMAGED / LOST / STOLEN DEVICES AND ACCESSORIES:

The Participant agrees to use the equipment only for its intended purpose and shall not intentionally or unintentionally lose or damage the equipment. The Participant ensures 2Watch Monitoring, Inc. that in the event that he/she should damage or lose the equipment while in their possession, 2WM-TAC is given the right to charge the full replacement cost of such equipment in addition to participant's daily rate.

Participant Initials _____

Damage Definitions:

- Any Alcohol and Electronic Monitoring Equipment which has sustained damage to the casing or the strap that inhibits its' ability to function properly or not at all.
- Any Alcohol and Electronic Monitoring Equipment accessories that have sustained damage which inhibits their ability to function properly or not at all.
- Any time Participant illegally or without approval removes either the Alcohol, and or Electronic Monitoring equipment and disposes it.
- Any time Participant loses Alcohol and/or Electronic Monitoring equipment accessories (including and without limitation, theft of accessories).
- Water Damage of Ankle Bracelet.

Section 10 Participant Initials _____

CREDIT / DEBIT CARD PROCESS

**All Credit/Debit Card phone transaction are processed as an on-line 'Sale' transaction.

**All recurring payments are applied only when the authorize Card Holder contacts 2WM to authorize payment.

**2WM will not keep Credit/Debit Card numbers on file.

**Credit/Debit Card holder can elect to receive via email a copy of the transaction.

This Participant Service Agreement coincide with Participant Application.

Participant acknowledges that she/he has read and examined this Service Agreement, its' terms and conditions and agrees to all terms and conditions as set forth. 2WM-TAC shall not disclose any information except to the appropriate Courts and Referring Authorities and/or Law Enforcement agencies.

Print Participant's Name _____

Participant's Signature _____

Participant's Address: _____

2Watch Monitoring, Inc.

Address: _____

1113 Tacoma Ave So.

City _____ State: _____ Zip: _____

Tacoma, Washington

Telephone: _____

Telephone: (253) 589 0224

Email Address: _____

Fax: (866) 735 0061

2WM-TAC Agent Signature _____ Date: _____